

**Litchfield Planning Board
Town Hall Conference Room
September 1, 2009**

Minutes approved 9/15/09

Members present:

Alison Douglas, Chairman
Edward Almeida, Vice Chairman
Leon Barry
Jayson Brennen (arrived at 7:25 p.m.)
Frank A. Byron, Selectmen's representative in place of Selectman Steve Perry

Members not present:

Marc Ducharme, Clerk
Carlos Fuertes

Also present:

Steve Wagner, Nashua Regional Planning Commission, Circuit Rider

AGENDA

1. Growth Allocation per LZO 2100.00

**2. Discussion regarding Residential Driveway Regulations and Permit
Proposed Appendix J Litchfield Regulations**

3. Conservation Subdivisions Work Session

4. Any Other Business

- Approve 8/18/09 minutes
- New Applicant
- Correspondence

Chairman Douglas called the meeting to order at 7:12 p.m.

1. Growth Allocations per LZO 2100.00

There is only one (1) Certificate to Build to be allocated for September. The total certificates available for the year were twelve (12).

1
2 Mrs. Douglas **ENTERTAINED A MOTION** to allocate one certificate to Theroux
3 Subdivision. Mr. Barry **MOTIONED** to allocate one certificate to Theroux Subdivision
4 Route 3A. Mr. Byron seconded. Motion carried 4-0-0.

5
6 **2. Residential Driveway Regulation**

7
8 Mr. Steve Wagner informed the Board that he had met with Road Agent John Pinciario
9 and Code Enforcement Officer Kevin Lynch to review their concerns with the proposed
10 driveway regulation. Mr. Wagner went over some of the changes made after his meeting
11 with the two officials. It was noted that the regulation states the Building Inspector to
12 oversee driveway permits in consultation with the Road Agent.

13
14 The definition section was removed. Mr. Wagner told the Board that the Building
15 Inspector, Mr. Lynch, thought there would be confusion with other definitions elsewhere
16 in the subdivision regulation, the zoning regulation and site plan. Chairman Douglas said
17 that she prefers that the definitions remain in the driveway regulation so that they are
18 more easily accessible where you need to see them. Mr. Wagner said he would provide a
19 list but he feels the definitions should be listed in one area and not scattered about. He
20 will highlight the definitions already in the zoning ordinance, site plan or subdivision
21 regulations.

22
23 Member Jayson Brennen entered the meeting at 7:25 p.m.

24
25 Mr. Byron mentioned years ago the townspeople voted no driveways off of Albuquerque
26 Avenue and indicated that perhaps it should be in the driveway regulation. To this, Mr.
27 Wagner replied that it is not in this regulation because it is already set forth in the zoning
28 ordinance.

29
30 **Section 1.4.5 - It is recommended to contact the Administrator or Planning Board**
31 **staff for their procedures, fees and deadlines, prior for submission.** Mr. Wagner said
32 that he had no idea what Kevin (Lynch) is going to do for fees at this point. The
33 Administrator refers to Kevin Lynch but this could be changed to say Building Inspector.
34 A fee schedule needs to be determined for the permits. Mr. Barry asked why it mentions
35 planning board staff if it is the building inspector. Mr. Wagner replied that the applicants
36 would have to deal with the planning board for new subdivisions coming in but he will
37 discuss this sentence with Kevin when he discusses the fee schedule.

38
39 Mr. Byron added you have a developer that comes in who has a large parcel to subdivide,
40 and the Planning Board would work with the developer to determine curb cuts for
41 driveways, etc. The other case is say Alison has a home and wants to put in a driveway
42 and build a garage on one side of the house and you want a driveway on the other side,
43 instead of going to the Planning Board, you would go to the Building Inspector and
44 request a driveway permit.

1 Mr. Brennen: If someone was going to redo their driveway, they would have to come in
2 for a permit. With respect, it is an existing condition and they are just paving it over, is
3
4 someone going to inspect this and say you need to do a \$10,000 culvert, or it does not
5 meet the specs, etc. you would have to rip it all up.
6

7 Mr. Wagner: Kevin would go out and see what they want to do, maybe just putting a top
8 coat because the driveway is worn, that is fine but again we need to make sure there is
9 not an issue with the driveway and/or the road. The main concern is to protect the road
10 edge and drainage.
11

12 Mrs. Douglas: Say, I want to repave my existing driveway that I have had for 30 years. I
13 get a permit and he has to inspect it and if he finds a problem even though it has been
14 there for 30 years, then what?
15

16 Mr. Wagner: I do not really have an answer if you just want to pave your driveway.
17

18 Mr. Barry felt there should not be a permit needed to just pave a driveway.
19

20 **Section 1.4.1 Application - Any person wishing to construct or alter a residential**
21 **driveway on an existing lot of record shall obtain a Driveway Permit.** Mr. Byron
22 believes it refers to a new driveway, or you want to make it wider or longer; if you are
23 just paving, that does not strike me as altering.
24

25 Mr. Wagner: I think in the private portion that is true but in the public right-of-way, it
26 would be wise to contact the Road Agent to make sure there are no issues. There may be
27 a certain pitch to the driveway.
28

29 Mr. Wagner told the Board that he would add a more definitive sentence. Mr. Brennen
30 pointed out he does not know if the last bolded sentence is needed and suggested making
31 it a simple permit fee and not have a menu list of different things.
32

33 Mr. Byron: Is there ever going to be a case of a subdivided lot coming back to the
34 Planning Board? The reason I am asking is the Planning Board going to set a fee for the
35 driveway, if you are going to do that, then that has to drive Kevin's fees. If you are not
36 going to do that, then you are going to have to charge a driveway fee for each subdivision
37 application that comes in, or is that driveway considered part of the subdivision?
38

39 Mr. Brennen: It could be part of the building permit.
40

41 Mr. Wagner: For site plan, it will be part of our road improvement included in the
42 application fees. For subdivision, if you had a 15 acre lot we are going to approve the
43 location of the driveway but you would still have to pull a permit for a driveway.
44

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1 Mr. Brennen: I would think the Planning Board's responsibility would be for new
2 subdivisions that come in and verify that their specs meet the driveway specs. Once we
3 approve that plan...it is out of our hands. Then the Building Inspector when they come to
4
5 build the house and put the driveway in, they would have to pull a permit and he handles
6 all the fees.

7
8 Mr. Wagner: That is close. The impression I got from Kevin is permits are not
9 subdivisions because we haven't gotten into ditch lines, and culverts and slopes.

10
11 Mr. Byron asked what happens if someone wanted to do a crushed gravel driveway. Mr.
12 Wagner said that the Town is going to require a paved apron in the Town right-of-way to
13 protect the road. There is a specification in the regulation that uses the asphalt society
14 specs for driveways.

15
16 **Section 1.5 Administration** Temporary access permit was taken out because the Board
17 thought it not to be an issue. Section 1.5 has been reworded.

18
19 **Appeals - Section 1.5.2** Mr. Byron: One of the questions I was going to ask on the
20 appeals, it is kind of vague as to who the appropriate authority is to appeal the decision to
21 and what the time period would be and stuff like that. I would imagine that the
22 appropriate authority, or some person, would appeal any decision of the building
23 inspector's to the ZBA.

24
25 Mr. Wagner: An appeal would only go to the ZBA if it was referring to something to do
26 with zoning or if an error of the administrator.

27
28 Mr. Byron: So, would it go to the Code Enforcement? You are going to promulgate this
29 as part of the ability to regulate subdivisions, right?

30
31 Mr. Wagner: There are a number of ways it would be appealed; it could fall back to
32 something to do with our planning board approval, appeal to the planning board first or
33 Superior Court...

34
35 Mr. Brennen suggested treating it like an abatement where it goes to the Board of
36 Selectmen.

37
38 Mr. Byron: I think Steve's point is it is a mixture of zoning as well as regulations.

39
40 Mr. Wagner: I could reference specific statutes.

41
42 Mr. Byron: What I am confused about is you have design features in there and if you
43 have design features in there, shouldn't it be part of the zoning ordinance?

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1 Mr. Wagner: No, those would be regulatory depending on what they are. Setbacks, lot
2 dimensions, things like that are zoning but design guidelines, buffers, things like that are
3 regulations. Specifications like 24 foot wide maximum apron width, that would be
4 regulatory and that would be appealed back to us or the ones who adopted the regulation.

5
6 Mr. Wagner will check further into the appeal process.

7
8 Mr. Brennen questioned why the Planning Board is setting up rules for driveways that
9 another department is going to enforce. He agrees with new driveways but he is a little
10 bit antsy talking about making rules for what the Building Inspector has to do and
11 wonders if that is in the Planning Board's area.

12
13 Mr. Wagner: Under RSA236:13 (Driveway Regulations) it seems the authority to
14 regulate driveways is placed under the planning board and gives the planning board the
15 authority to delegate the power to the administrator.

16
17 Mr. Byron indicated that it has to be clear as to when the Planning Board gets involved
18 and when the Building Inspector gets involved. He has no problem with the Planning
19 Board authorizing and delegating to the Building Inspector.

20
21 **Section 1.6.3.1 u.** Shared driveways and side-by-side driveways were discussed. Mr.
22 Wagner pointed out that the Planning Board has a policy of no shared driveways and this
23 can be taken out of the regulation if the Board so desires. Mr. Wagner told the Board that
24 the building inspector felt it is useful to have shared driveways because of what the Board
25 is trying to do with conservation subdivisions and workforce housing. This would be a
26 way to reduce costs and give the right incentive to developers and offer higher density
27 lots, smaller lot size and there is a plus to have the ability to do shared driveways.

28
29 Mr. Barry suggested that shared driveways be specified in the workforce housing and
30 conservation subdivisions rather in the driveway regulation. Mr. Wagner indicated if the
31 Board wants to go with shared driveways, he would need more time to iron out the
32 specifications. Mr. Byron is not too keen on shared driveways either but he can see where
33 in some cases where the lot configuration would benefit shared driveways but it is few
34 and far between. Mr. Wagner indicated that another way to do it is by special exception
35 where we layout the criteria but they would be required to go to the ZBA.

36
37 Alternative lot design - Mr. Wagner said it is different than just standard driveways
38 because it allows a certain percentage of the total subdivision lots, reduced frontage and
39 allows another lot in the back. It was agreed to pull Item u. Shared driveways, page 3.

40
41 Mr. Byron suggested Section u. Shared driveways would be specified under workforce
42 housing and not allow it in the standard subdivision regulation, allowing it only in a
43 cluster housing development. All agreed to consider this for workforce and conservation
44 subdivisions.

1 As to the asphalt specifications, Mr. Brennen asked for an opinion from an asphalt
2 company as to what a typical driveway specification would entail.

3
4 **2. Paved driveway apron** Page 4, it was agreed to separate as a. and last paragraph is b.

5
6 Last sentence in a. refers to a bond or cash to be posted which indicates that the
7 homeowner will have to post a bond. The concern is CO (Certificate of Occupancy) is
8 issued and then they do not pave the apron. The regulation would allow for a six month
9 extension. The only period you can be granted an extension is from November to May.
10 Mr. Brennen indicated he had a problem with a bond for a single owner say the apron is
11 \$1,000 they have to put up \$1,500 and their money is sitting there for 6 months thus tying
12 up that money until it is paved and inspected. This seems like a lot for a typical
13 homeowner to go through. Mr. Wagner will take a look at enforcement for lots of record
14 for non-compliance.

15
16 Typical driveway diagram - Kevin Lynch had provided a detail from the Town of
17 Milford. Mr. Wagner explained the diagram to those present, page 6 of the proposed
18 regulation.

19
20 The Section on Waiver was removed from the last draft. Mr. Wagner did not like the
21 wording and Mr. Lynch does not like waivers.

22
23 Mr. Wagner will meet with Kevin and Jack, and determine fees, etc. and hopefully to
24 have a final copy of the driveway regulation for the next meeting. In the meantime,
25 members will review the regulation.

26
27 **2. Conservation Subdivisions**

28
29 This was postponed until the next meeting when Marc Ducharme is present.

30
31 **3. Any Other Business**

32
33 **Selectman Input** - Selectman Byron asked about the floodplain ordinance. The
34 ordinance has been updated and the Selectmen's resolution and the certification and
35 Planning Board's copy of the floodplain ordinance and its certification has been sent to
36 FEMA. The Town has met the September deadline.

37
38 **Culverts** - On another matter, Selectman Byron mentioned there are a lot of culverts in
39 Town collapsing and this is something the Board should think about regarding culvert
40 specifications. He was told that there is something in the regulations to cover it.

41
42 **Bike Path** - Selectman Byron mentioned the Bike Path dedication is September 16, 2009
43 at 10:30 a.m.

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Gravel Pit - Mr. Byron asked about a gravel pit located on Hillcrest Road that was supposed to be reclaimed. Mr. Brennen recalls the lot was subdivided into four (4) lots and it was supposed to be loamed. Mr. Barry indicated that one lot was subdivided out and the rest is in current use. Chairman Douglas will check on the matter. Mr. Wagner suggested having he Code Enforcement Officer take a look at it.

New member - At the last meeting, John Miller met with the Board to discuss his desire to serve as a Planning Board member. There is an alternate position opened and once the Board votes to approve his request as an alternate, a letter would have to be forwarded to the Selectmen recommending the appointment.

Minutes - The Board reviewed the August 18, 2009, minutes. Mrs. Douglas **ENTERTAINED A MOTION** to accept the August 18, 2009. Mr. Almeida **SO MOVED** to accept the August 18, 2009, minutes as documented. Mr. Barry seconded. Motion carried 3-0-2.

Annandale Fields Subdivision - Chairman Douglas read a letter from Lou Caron, L.C. Engineering, to Sousa Realty requesting a guardrail between station 5+50 and 11+25, right in stations 5+ 10 to 11+90 left be constructed as shown on the site plan by September 30, 2009.

New member - Mr. Barry said that Mr. Miller would be a good member because he liked the way Mr. Miller listened when he was before the Board and that he stayed through most of the meeting. Chairman Douglas **ENTERTAINED A MOTION** to send a letter of recommendation to the Board of Selectmen. Mr. Almeida **SO MOVED** to recommend John Miller as an alternate member to the Planning Board and document recommendation to the Board of Selectmen. Mr. Brennen seconded. Motion carried 4-0-1.

There being no further business, Chairman Douglas **MOTIONED** to adjourn the meeting at 9:32 p.m. Mr. Barry seconded. Motion carried 5-0-0.

Alison Douglas, Chairman

Edward Almeida, V.Chairman

Jayson Brennen

Leon Barry

Frank Byron, Selectman

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Lorraine Dogopoulos
Recording Secretary